

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 \* \* \*

9 FREDERICK BANKS, Case No. 2:17-cv-01988-KJD-CWH  
10 v. Petitioner,  
11 ROBERT CESSAR, et al., ORDER  
12 Respondents.  
13

14 Petitioner has submitted a purported *pro se* petition for writ of habeas corpus  
15 under 28 U.S.C. § 2254 (ECF No. 1-1). The petition is not on the court-required form,  
16 and petitioner has filed an incomplete application to proceed *in forma pauperis*.  
17 Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and  
18 Local Rule LSR1-2. The present action, therefore, will be dismissed.

19 Moreover, petitioner's submissions appear delusional and frivolous. To the  
20 extent that petitioner sets forth any discernible factual allegations cognizable in federal  
21 habeas or discernible, plausible factual allegations that would state a claim for which  
22 relief may be granted in any event, he appears to seek to challenge a federal criminal  
23 sentence imposed by the Western District of Pennsylvania. However, a petitioner  
24 challenging a federal conviction generally must file a § 2255 motion to vacate, set aside  
25 or correct the sentence in that federal case itself.

26 Further, this court takes judicial notice of its docket, and this court previously  
27 dismissed two cases filed by Banks: 2:16-cv-1153-JAD-VCF and 2:16-cv-1155-RFB-  
28 VCF. The court consolidated those cases and stated that Banks had been declared a

1 vexatious litigant by the Western District of Pennsylvania, did not seek prior  
2 authorization to file a complaint in the District of Nevada, and apparently attempted to  
3 circumvent the Pennsylvania order by filing cases here.

4 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** as improperly  
5 commenced and frivolous.

6 **IT IS FURTHER ORDERED** that petitioner's application to proceed *in forma*  
7 *pauperis* (ECF No. 1) is **DENIED**.

8 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

9 **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly and  
10 close this case.

11  
12 DATED: 16 November 2017.

13  
14 

15 KENT J. DAWSON  
16 UNITED STATES DISTRICT JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28